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09/548,876	04/13/2000	Jason D. Miller	0-03A	7633

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James A Flight  
Marshall O'Toole Gerstein Murray & Borun  
6300 Sears Tower  
233 South Wacker Drive  
Chicago, IL 60606-6402

EXAMINER

HORTON, YVONNE MICHELE

ART UNIT

PAPER NUMBER

3635

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Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.  
09/548,876

Applicant(s)  
JASON D. MILLER ET AL.

Examiner  
YVONNE M. HORTON

Art Unit  
3635



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on Oct 9, 2001
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some\* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

- 15) ☐ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 6
- 18) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other:

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## **DETAILED ACTION**

### ***Specification***

The abstract of the disclosure stands objected to because line 7, which recites "F:\MATTHEWHARTER\DOCS\0-0A.APP", should be deleted. Correction is required. See MPEP § 608.01(b).

The use of the trademark *VELCRO* remains noted in this application. It should be capitalized wherever it appears and be accompanied by the generic terminology.

Although the use of trademarks is permissible in patent applications, the proprietary nature of the marks should be respected and every effort made to prevent their use in any manner which might adversely affect their validity as trademarks.

### ***Claim Objections***

Claim 7 stands objected to because of the following informalities: Claim 7, line 2, change from "cover" to "core". Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

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Claims 1, 2 and 12-15 stand rejected under 35 U.S.C. 102(e) as being anticipated by US patent 6016637, **Styba**.

In regards to claim 1, **Styba** discloses a dock pad (24) adapted to seal against a vehicle parked against the dock pad, comprising a foam core (30); a cover (40) disposed on the foam core; and a heat shield (34) adjacent the cover, wherein the dock pad is adapted to seal against the vehicle by virtue of the foam core being compressible, the cover being pliable, and the heat shield being pliable. Although the heat shield (34) of **Styba** is noted for use as a puncture resistor, **Styba** also discloses that this material (34) could be "polyester". Polyester is well known in the art for its flexible and flame resistance characteristics. So, even though **Styba** does not explicitly state that the material (34) is a "heat shield", heat resistance is an inherent characteristic of the disclosed material - polyester.

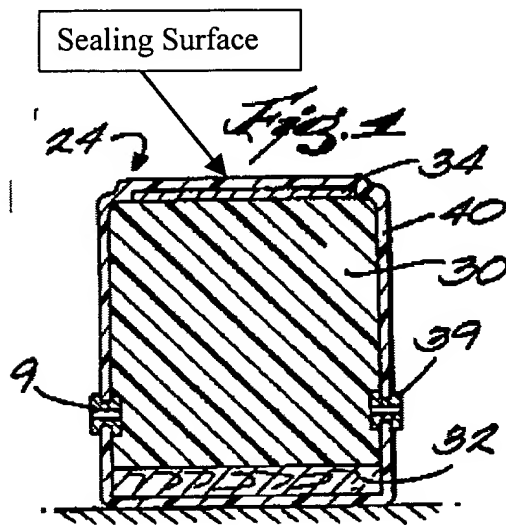
In regards to claim 2, **Styba** discloses the heat shield (34) being interposed between the cover (40) and the foam core (30), see Figure 4.

In regards to claim 12, **Styba** discloses a backer (32) attached to the cover (40). The backer (32) is wood and knowingly has a greater rigidity than the foam core (30). The backer (32) serves to provide the foam core (30) and the cover (40) with structural support.

In regards to claim 13, in Figure 4 below, **Styba** discloses a sealing surface and a mounting surface (MS) that face away from each other with at least a portion of the heat shield (34) extending substantially parallel to the sealing surface and being closer

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to the sealing surface than the mounting surface (MS), wherein the sealing surface is adapted to seal against the vehicle and the mounting surface (MS) is adapted to be attached to a wall (16). (See Below).



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In regards to claim 14, **Styba** discloses the dock pad (10) having an elongated length (20) running substantially horizontally.

In regards to claim 15, **Styba** discloses the dock pad (10) having an inverted "U-shape" with one horizontally elongated member (20) and two vertically elongated members (18, 18'), with the heat shield (34) being part of the horizontally elongated member (20).

***Claim Rejections - 35 USC § 103***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 3-11 and 17-19 stand rejected under 35 U.S.C. 103(a) as being unpatentable over **Styba**. **Styba** discloses the claimed invention except for the heat shield (34) having a higher thermal conductivity than the foam core (30); the heat shield (34) having a higher thermal conductivity than the cover (40); the heat shield (34) being able to withstand a higher temperature than the foam core (30) and cover (40); the heat shield (34) having a higher reflectivity than the foam core (30) and cover (40); the cover (40) having a higher auto ignition point than the foam core (30); the cover (40) having a lower auto ignition point than the heat shield (34); and the foam core (30) having a lower auto ignition point than the heat shield (34). It would have been obvious to one having ordinary skill in the art at the time the invention was made to form the heat shield with a higher thermal conductivity than the foam core; the heat shield with a higher thermal conductivity than the cover; the heat shield being able to withstand a

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higher temperature than the foam core and cover; the heat shield with a higher reflectivity than the foam core and cover; the cover with a higher auto ignition point than the foam core; the cover with a lower auto ignition point than the heat shield; and the foam core with a lower auto ignition point than the heat shield; since it is within the skill of a worker in the art to select a known material on the basis of its suitability for the intended use as an obvious matter of design choice. The independent claim merely calls for a foam core and a heat Sheila. There are several different types of foam cores as there are heat shields. Each type of material bears its own distinct characteristics with respect to thermal conductivity and ignition points. The type of foam and heat shield would depend greatly upon the environment in which the dock pad is going to be used. If the dock pad was not used as frequently as others, a heat shield with not as high a thermal conductivity may be used because the dock pad would not be getting as much use (i.e the chance of the taillights of a truck destroying the pad are less) and vice-versa.

Claim 16 stands rejected under 35 U.S.C. 103(a) as being unpatentable over **Styba**. **Styba** discloses the claimed invention except for the heat shield including aluminum. It too would have been obvious to one having ordinary skill in the art at the time the invention was made to fabricate the heat shield to include aluminum, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design

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choice. Again the material selection for the heat shield depends upon the environment and the amount of use the dock pad would be subjected.

Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over **Styba** in view of **Commercial Material RTCM01**. **Styba** discloses the claimed invention except for the heat shield including aluminum. **RTCM01**, as disclosed by the applicant, consists of two sheet layers of perforated aluminum. Since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice, it too would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the heat shield of **Styba** with the aluminum of **RTCM01** in order to ensure that the dock pad is not only puncture resistant but also resistant to excessive heat conditions thereby increasing the life of the dock pad.

Claim 20 stands rejected under 35 U.S.C. 103(a) as being unpatentable over **Styba**. **Styba** discloses dock pad, comprising a backer (32); a foam core (30); a cover (40); and a heat shield (34); wherein the foam core (30) is between the backer (32) and a sealing surface (see figure 4 above) of the cover (40), the heat shield (34) being between the foam core (30) and the sealing surface, the backer (32) is more rigid than the foam core (30) and the cover (40). **Styba** does not disclose the heat shield being able withstand a higher temperature than the foam core and the cover. It would have been obvious to one having ordinary skill in the art at the time the invention was made to form the heat shield being able to withstand a higher temperature than the foam core



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and cover; since it is within the skill of a worker in the art to select a known material on the basis of its suitability for the intended use as an obvious matter of design choice.

The independent claim merely calls for a foam core and a heat shield. There are several different types of foam cores as there are heat shields. Each type of material bears its own distinct characteristics with respect to thermal conductivity and ignition points. The type of foam and heat shield would depend greatly upon the environment in which the dock pad is going to be used. If the dock pad was not used as frequently as others, a heat shield with not as high a thermal conductivity may be used because the dock pad would not be getting as much use (i.e the chance of the taillights of a truck destroying the pad are less) and vice-versa.

### ***Response to Arguments***

Applicant's arguments filed 10/9/01 have been fully considered but they are not persuasive because although the heat shield (34) of **Styba** is noted for use as a puncture resistor, **Styba** also discloses that this material (34) could be "polyester". Polyester is well known in the art for its flexible and flame resistance characteristics. So, even though **Styba** does not explicitly state that the material (34) is a "heat shield", heat resistance is an inherent characteristic of the disclosed material - polyester. Hence, there is nothing precluding the puncture resistant material (34) of **Styba** from also being a heat shield, especially since heat resistance is an inherent characteristic

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the disclosed material - see the attached definitions for "polyester fiber and resins" as provided by "The Hawley's Condensed Chemical Dictionary", 11th edition.

**Conclusion**

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yvonne M. Horton whose telephone number is (703) 308-1909.

  
Yvonne M. Horton  
Patent Examiner  
Art Unit 3635  
December 29, 2001

  
Carl D. Friedman  
Supervisory Patent Examiner  
Group 3600

**note:** Ethylene making percentages of acrylic acid; a copolymerization of butadiene is vulcanizable elastomer. Molecular weight properties. Molecular weight properties.